



## CITY OF HAYWARD

### AGENDA REPORT

Meeting Date 7/24/03

Agenda Item 2

**TO:** Planning Commission

**FROM:** Tim R. Koonze, Assistant Planner

**SUBJECT:** Appeal of the Planning Director's Denial of Administrative Use Permit No. PL-2002-0330 – Operation Paintball (Operator/Applicant) - Seecon XVI Partners (Owner) - Request to Operate a Commercial Amusement Facility (Paintball) and Request Approval of an Exception to the Number of Parking Spaces Required

The Property Is Located at 1932 West Winton Avenue in an Industrial (I) Zoning District

#### RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15270 (a), Projects Which Are Disapproved, and
2. Deny the appeal of the use permit and uphold the Planning Director's denial of the application subject to the attached findings; and
3. Deny the request for the parking exception subject to the attached findings.

#### DISCUSSION:

The City issued a business license for Operation Paintball to operate a paintball sales business in 1994. The applicant made no representation that the business was to include a commercial recreation activity. In February of this year, the Community Preservation Division received a complaint that a paintball facility was operating without the required administrative use permit. A site investigation revealed that a paintball recreational facility was being operated in a warehouse building and that a large, outdoor structure had been built for the same purpose without the benefit of a building permit. The 6,200 square-foot indoor facility consists of an office, restrooms, and a 5,500 square-foot paintball playing field. The outdoor facility has been "red-tagged" by the Building Official, declaring it unsafe because the soundness of the structure is unknown.

The property is located on the south side of West Winton Avenue approximately 400 feet east of Alexander Court and is approximately 205 feet wide and 975 feet deep. The indoor paintball facility is within a long narrow building that serves multiple industrial tenants. The business is located approximately 600 feet into the property; two industrial tenants exist beyond the paintball facility.

#### **Use Permit:**

The applicant has applied for an administrative use permit to continue to use both the indoor warehouse facility and the exterior structure for a "commercial amusement facility" (paintball). The Planning Director denied the use permit, and the applicant is appealing this action to the Planning Commission.

The applicant describes the paintball operation as a recreational activity where patrons rent air guns that propel small balls filled with paint and shoot at one another while trying to capture the opponents flag. The participants wear safety gear, such as goggles and chest protectors, and are monitored by two referees. The game is played by adults and children over the age of ten. They indicate that often children are dropped off for periods of up to four hours of play. The paintball facility is open Friday and Saturday from noon until midnight and on Sundays between 11:00 a.m. to 6:00 p.m. During the summer months the business may open during the week for special parties and events. They indicate that their operation is enjoyed by hundreds of individuals, families and businesses.

With respect to the use of the warehouse for a paintball operation, there are no known major structural issues; however, currently, the bathrooms in the warehouse do not comply with the Uniform Building Code.

An outdoor paintball facility was constructed within the required parking lot area across the driveway from the indoor facility. The structure is located on the west side of the property over a major water main within a 40-foot-wide City and County of San Francisco Water Line easement. If the City were to approve the structure, permission from the City and County of San Francisco would have to be granted to locate this facility within its easement. The structure consists of 6-foot-high walls constructed of unpainted corrugated metal with a netting enclosure that extends to a height of approximately 15 feet. The structure is inconsistent with the Architectural Design Principles of the Hayward Zoning Ordinance in that it fails to incorporate an attractive mixture of colors and materials, such as a variety of textures, interesting patterns, shadows, offsets, decorative siding; or attractive accent materials. The building materials and colors selected should be harmonious with those found on the site and buildings in the area. The base colors should be low-reflective, subtle, and neutral. Unpainted (gray galvanized) metal surfaces are discouraged on primary structures. There are also two outside portable toilets that serve the patrons using the outdoor playing field. These portable sanitary facilities prohibited in conjunction with businesses.

The property is not adequately maintained. A site inspection revealed plastic paintball casings and paint splatter throughout the parking and driveway area in front of the paint-

ball business and in front of adjacent businesses. The City received a complaint from one nearby business owner that paintball patrons are shooting paintballs at his building.

With the approval of an administrative use permit, the Zoning Ordinance allows "commercial amusement facilities." Special consideration is to be given to location and land use compatibility. The use permit affords the City the opportunity to assure that the use permitted is a community need and that the use can operate in maximum harmony with the area. In addition, the use must not impair the character of the neighborhood or be detrimental to the public health, safety, or general welfare. Accordingly, the Safety of patrons of non-industrial facilities located in the Industrial District is essential and particular attention should be given to children. The Zoning Ordinance does not limit the ages of individuals who might use a "commercial amusement facility"; however, in recent years trade schools that serve students under the age of 18, childcare, and other recreational facilities for other than adults were removed from the allowable uses in the industrial district as they involve large numbers of children. In staff's opinion, it is preferable for an amusement facility within the Industrial District to be located on a separate property that avoids contact with adjoining industrial businesses. An amusement facility within an industrial building shared by other non-recreational business is not desirable.

The Hayward General Plan seeks to increase the amount, diversity and quality of parks and recreational facilities and opportunities. However, recreational opportunities should be located where they are easily and safely accessible. This subject property is located in the depths of the Industrial District, approximately 600 feet from West Winton Avenue. All businesses within the industrial complex share a common driveway, and many of these businesses use trucks and some are heavy industrial uses, including an electrical cable manufacturer and distributor located at the rear of the property. Paintball patrons are required to pass several other businesses by utilizing that common driveway and those who use the exterior paintball structure must walk across the same driveway used by adjacent businesses to access the paintball office and sales areas. In addition, the General Plan seeks to "promote mixed-use development where appropriate to ensure a pedestrian-friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity." It also encourages designs that "create improved and safer circulation facilities for pedestrians," and "encourage design of development that contributes to continuous pedestrian pathways and pedestrian connectivity." The paintball operation is not pedestrian-friendly given the industrial truck traffic in the immediate area. The location of the outdoor facility requires pedestrians, including children, to travel across travel lanes used by industrial traffic.

Another General Plan policy strives to "promote and protect the appearance of the business and Technology Corridor to encourage quality development". The appearance of a paintball enclosure is not attractive and is inconsistent with the Architectural Design Principles of the Hayward Zoning Ordinance.

In addition to concerns for the protection of users of the recreational facility, industrial businesses should be able to operate without interference from those involved with recreational uses.

**Parking Exception:**

The City's Off-Street Parking Regulations require a use such as a paintball operation to provide one parking space for every 200 square feet of gross floor area. The City's Off Street Parking Regulations require the indoor paintball operation to provide 68 parking spaces and the outdoor facility requires 38 parking spaces for a total of 106 parking spaces, including 5 handicap spaces.

The original building permit included 31 required parking spaces for the users of the building known as 1932 West Winton Avenue. This building is currently used by the paintball operation and four other industrial businesses. The outdoor paintball structure is constructed over a portion of the required parking spaces, which increases the parking demand while reducing the number of available parking spaces.

The requested parking exception is to provide 20 parking spaces where 106 are required. During a recent site investigation there appeared to be approximately 20 on-site parking spaces located in front of the paintball business and approximately 12 parking spaces in front of the four remaining businesses. The business to the south has agreed to share parking spaces with the paintball facility, and once illegal outdoor storage is removed additional spaces can be created. (The Community Preservation Division has been notified of the illegal outdoor storage will work with the adjacent business owner to either remove the storage or requires an application for a use permit for outdoor storage.) When the paintball facility operates in the evenings and weekends parking can be shared with the other adjacent businesses that are closed.

**Public Notice:**

On June 5, 2003, a notice describing the request to operate a paintball facility was mailed to all property owners and tenants within 300 feet of the subject property and to all interested parties. One response was received not objecting to the business but expressing concerns that his building on West Winton Avenue was being hit by paintballs. On July 14, 2003, a Notice of the Public hearing for the Planning Commission meeting was mailed to the same owners and tenants.

At the time the City "red tagged" the outdoor facility the Planning Division received several emails from its patrons supporting the paintball facility. Copies of those e-mail messages are attached. Staff understands the value to the community a recreational facility such as this can have, but it also recognizes that the facility should be located on a site suitable for the safety of the users and which does not interfere with the primary industrial use of the property.

**Environmental Review:**

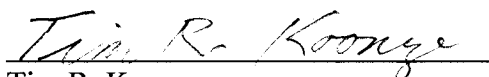
The proposed project is statutorily exempt from the California Environmental Quality Act (CEQA) guidelines, per Section 15270 (a), Projects Which Are Disapproved.

**Conclusion:**

In staff's opinion, the proposed use is inconsistent with the General Plan and the Zoning Ordinance. The use is not compatible with the industrial site in that it requires patrons to utilize a common driveway shared by industrial businesses; the location of one of the structures requires pedestrians, including children, to travel across travel lanes used by industrial traffic; and adjacent businesses are impacted by paint splatter and paintball casings associated with the use as well as limited parking and impaired circulation. The site cannot accommodate the required number of parking stalls required for this use. The outdoor structure constructed in the parking lot is inconsistent with the Architectural Design Principles of the Hayward Zoning Ordinance. A recreational facility within the middle of an industrial building is not consistent with the goals of providing compatible in-fill development.

If the Planning Commission were to find that allowing this use is appropriate, staff would need to conduct an environment review, and findings and conditions of approval would have to be made accordingly and returned to the Planning Commission for review and approval. If approved, staff recommends that conditions of approval include a requirement that the applicant is to remove the outdoor paintball facility and the chemical toilets and restore the parking spaces that were originally approved. A condition should require that the toilet facilities within the building comply with Uniform Building Code standards. If the Planning Commission elects to allow the outdoor facility, conditions should include that a building permit be processed and approved by the City of Hayward and that authorization from the City and County of San Francisco must be obtained to encroach into the existing easement.

*Prepared by:*



Tim R. Koonze  
Assistant Planner

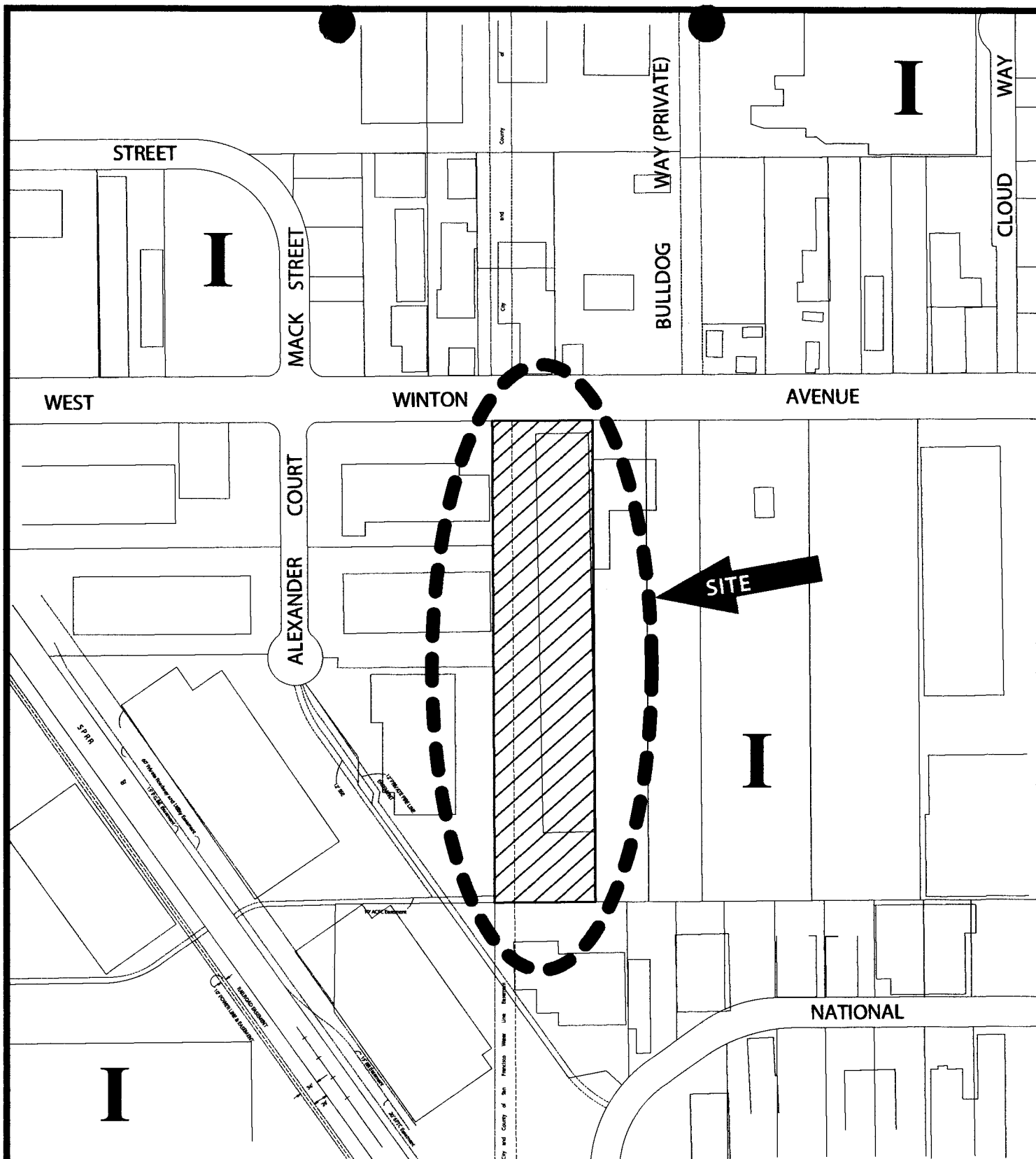
*Recommended by:*



Dyana Anderly, AICP  
Planning Manager

**Attachments:**

- A. Area Map
- B. Findings for Denial



## Area & Zoning Map

PL-2003-0330 AUP

Address: 1932 West Winton Avenue #1

Applicant: Gerald Reilly

Owner: Seecon XVI Partners

I-Industrial



**FINDINGS FOR DENIAL**  
**PL 2003-0330 Administrative Use Permit and**  
**Exception to the Number of Parking Spaces Required**  
1932 West Winton Avenue  
Operation Paintball

**USE PERMIT**

1. Find that the proposed project is Statutorily Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15270 (a), Projects Which Are Disapproved.
2. The project is not desirable for the public welfare as a structure used for the paint-ball operation was erected without the benefit of a building permit and its stability is unknown, the sanitary facilities are not those permitted by the City of Hayward, a structure is in the pathway of industrial traffic and circulation, the facility consumes required parking, and there is no designated drop-off area for users, including children.
3. The project will impair the character and integrity of the zoning district and surrounding area in that it is in the pathway of other industrial activity, incidents of splashed paint on adjoining properties have been noted, signs have been erected without the benefit of a sign permit(s), and the property is not well-maintained as evidenced by paintballs within travelways and outdoor storage of materials.
4. The proposed use will be detrimental to the public health, safety, or general welfare of the City as indicated in Finding Nos. 1 and 2 above.
5. The proposed use is not in harmony with applicable City policies and the intent and purpose of the industrial zoning district in that
  - The paint-ball operation is inconsistent with the General Plan that seeks to "promote mixed-use development where appropriate to ensure a pedestrian-friendly environment that has opportunities such as housing, jobs, child care, shopping, entertainment, parks and recreation in close proximity." The paint-ball operation conflicts with surrounding industrial activity and is not pedestrian-friendly given the industrial truck traffic in the immediate area.
  - The paint-ball operation is inconsistent with the General Plan that seeks to "create improved and safer circulation facilities for pedestrians," and "Encourage design of development that contributes to continuous pedestrian pathways and pedestrian connectivity." The location of one of the structures requires pedestrians, including children, to travel across travel lanes used by industrial traffic.
  - The paint-ball operation is inconsistent with the General Plan that seeks to "promote and protect the appearance of the business and Technology Corridor to encourage quality development" in that the appearance of a paintball enclosure is not attractive

and is inconsistent with the architectural design standards of the Hayward Zoning Ordinance.

- The design of the structure of the paint-ball operation is inconsistent with the Architectural Design Principles of the Hayward Zoning Ordinance in that it fails to incorporate design elements that are harmonious and in proportion to one another.
- The design of the structure of the paint-ball operation is inconsistent with the Architectural Design Principles of the Hayward Zoning Ordinance in that it fails to incorporate an attractive mixture of color and materials, for example, a variety of texture; use of interesting patterns; provision for interesting shadows; offsets; decorative siding; attractive accent materials; building materials and colors that are harmonious with the site and surrounding uses, buildings and area; base colors that are low reflective, subtle, neutral; and unpainted (gray galvanized) metal surfaces are not to be used on primary structures.
- The design of the paint-ball operation is inconsistent with the Minimum Design and Performance Standards of the Hayward Zoning Ordinance in that occupies space that is required for off-street parking.
- The design of the paint-ball operation is inconsistent with the City's prohibition against the use of portable sanitary facilities in conjunction with businesses.

#### **EXCEPTION TO PARKING REQUIREMENT**

1. There are no special conditions of circumstances peculiar to the property involved that does not apply generally to property in the same district. The building was approved with adequate parking for the industrial type uses intended for the site.
2. The granting of this exception would grant a special privilege inconsistent with the limitations on other properties within the same district in that the proposed use requires five times more parking spaces than a normal industrial use.
3. The granting of this exemption would result in parking that could severely limit the industrial use of the property by limiting the parking of industrial users.
4. The granting of this exemption is inconsistent with the purpose of the Off Street Parking Regulations in that it could create a safety hazard by creating an unsafe movement of traffic through the area.
5. The granting of this exemption is inconsistent with the purpose of the Off Street Parking Regulations in that it is intended to promote industry, by providing safe, convenient, and attractive working environment, due to limited parking opportunities and pedestrian access.